



Washington State  
Transportation Commission

VERBATIM TRANSCRIPT  
I-405 EXPRESS TOLL LANES FINAL HEARING  
JULY 19, 2016  
1:00 p.m.

Washington State Department of Transportation  
Nisqually Conference Room  
310 Maple Park Avenue SE  
Olympia, WA

**Commissioner Litt:** Our next agenda item is a public hearing on the I-405 Express Toll Lanes final action to change the rules, to essentially change some of the times of tolling, and the policies that go along with that. What we will do is, we will first hear from Carl See and then the Commission will be able to ask him any questions that we have. Then we'll open it up for public testimony. In any event after public testimony we will have time for the Commission to further discuss this or take final action. With that Carl if you want to proceed, you can do that.

**Carl See:** Sure. For the record Carl See, Senior Financial Analyst, with State Transportation Commission. So today as Commissioner Litt described we are here to consider the permanent rule for the hours of operation on the Express Toll Lanes on 405. What I will do is walk you through a bit of the background, on this consideration, and what process you've been through including public comment that's been received, both at the one hearing that we did have, and in addition to the emails and other correspondence that we received, and then leave it there for additional questions.

So, first just to give some background, now I'll lead off, I'll go into what decision was made on March 15 when the emergency rule was considered by the Commission. Here is some background that was considered when that emergency rule was put in place by the Commission.

So, ETLs have experienced some early successes through February 2016, but included some initial express toll lane usage that was higher than expected as has been discussed. Transit, vanpools, and carpools had a more reliable trip in both directions. Both northbound and southbound I-405 was moving more vehicles during peak commutes than previously.

In addition, southbound traffic improved in both general purpose and express toll lanes while in the northbound express toll lane traffic improved overall compared to the high occupancy vehicle lanes that were previously along that stretch. Finally, both long and medium trips had faster travel times than before the ETLs were in place. That said, there were some challenges that were evident when this was discussed in March. So, that included northbound general purpose traffic which was more congested in some locations. Some shorter trips were taking longer than before with the ETLs were in place, primarily northbound. weekday carpool usage was lower than projected, but was steadily increasing, and WSDOT was in the process of monitoring that further.

Toll rates continued to reach their maximum rate at a higher than expected frequency. In addition, on weekends there was some new congestion that popped up in certain spots along the corridor. There were concerns from weekend users of I-405 about the ETLs toll rates and the cost of buying a flex pass that was expressed in a survey that WSDOT conducted as reasons for not using the ETLs. What we end up seeing was congestion increasing on weekends in-part because the ETLs were being underutilized, so that created more traffic driving into the existing general purpose lanes. One primary reason seemed to be that these were not commuters but instead discretionary trips, and so there's drivers that were having less reason to invest and learn more about ETLs, and go forward with purchasing the pass and using the those ETL trips.

So, with that as some context, the Commission approved the emergency rule on March 15 of this year. What that did was reduce the express toll lane hours of operations from 5:00 a.m. to 7:00 p.m. on weekdays, and then it opened the HOV lanes to all vehicles on evenings, so from 7:00 p.m. to 5:00 a.m. as well as weekends and on the six major federal holidays. So, with those lanes open there's no carpool requirements and no transponder required. This all took effect on March 18, at 7:00 p.m., and it was again extended on May 24 of this year. It remains in effect today and will through early September, so there's time for the permanent rule to go into effect if you vote on it.

There were some other options considered by the Commission that were brought forth by WSDOT at the time. These were the approved recommendations from WSDOT in the end. But, other options included looking at 5:00 a.m. to 8:00 p.m., instead of 7:00 p.m. on weekdays. You also looked at a zero-dollar toll on evenings and weekends, which would have maintained some account requirements and possibly enabled dynamic tolling if needed. Another possibility was maintaining HOV 2+ on weekends, or possibly adding four additional holidays. The discussion involved these; we went forward with based on the recommendations and the data that was discussed. So, the benefits that were put forward as for reasons to pass an emergency rule that included maintaining faster more reliable trips for transit, carpoolers, and toll paying customers when the need was the highest, balancing traffic across all lanes on evenings and weekends by opening up that HOV lane or the ETL lane. Also, the intent was to improve consistency with

HOV policies on I-405 south of Bellevue and SR 167, while weekends remain. Weekend hours are not consistent, but the change did make the weekday hours consistent through that whole corridor being 5:00 a.m. to 7:00 p.m. There are some charts I could pull-up if that would be helpful to look at what some of this information was, but it was as presented at the March Commission meeting that you all reviewed.

**Commissioner Jennings:** We've had time now to collect data since implementation of the emergency rule. Do we have those charts as far as what's happened out there and what does it look like compared to previously?

**Carl See:** Sure. I have a couple of slides that Patty Rubstello provided that provide some initial information about evenings and weekends and I can share those a little later in the presentation if that's okay.

**Commissioner Litt:** We can wait for them.

**Carl See:** I can do it now. But overall the information is quite preliminary at the moment to really make, as far as the time that's passed since March. Especially if you think about the seasonality and other conditions, but there is some initial information that was reported in the ninth-month update that wasn't available in the six-month update and so, a little bit, some of that speaks to the change and I'll talk to that a little later. As discussed, there was public comment at the hearing on March 15 when you made the decision to go forward with the emergency rule. There was input from about, five individuals and organizations that provided input at that meeting. That includes input from Community Transit, we received a letter ahead of time, prior to the hearing. So four spoke at the hearing and one provided a letter. This included Bellevue Chamber of Commerce and Eastside Transportation Association or least two of the organizations that came to speak. Overall, on the support side there was support for the change in hours to reduce the hours of operation. There was also a request that data be collected to monitor performance, while supporting it, wanted to ensure there was future collection to ensure this was a solid decision. Also, there was while supporting an expression that there was, there are additional changes they wanted to see in order to further relieve congestion problems along the corridor.

In opposition; there was from Community Transit an interest to maintain the existing hours of operation and HOV policies to support transit, and if it was to be put in place to at least enable the tolls in the ETLs to go in effect if the speeds were below 45 mph. They had a concern that this was an agreement that transit was a part of when it was put together and didn't want to see that agreement changed as originally purposed. There was also a concern from others that ETLs are a burden for low-income drivers. So that was what we heard at the public hearing. Since that time between March and here in July we've received about 75 emails to our Transportation

Commission account. We had a great deal of passion in some of the emails, definitely charged up, charged topic but a lot of it. You have this in front of you. I should note that you have the summary that we provided. And while there are 75 emails many of them did not pertain directly to the rule itself. I want to be clear when I say summaries of support, majority of those are commenting directly on the rule, I would say the majority had either support as purposed or support with additional changes they would like to see.

Overall there's a lot of expression against ETLs being in place at all as a means to manage congestion or otherwise provide revenue for future projects. So, you'll see, so when you look at the support, as to say support of change as purposed or support change of additional changes such as further decrease in hours of operation, or remove peak 3+ carpool requirement. The HOV discussion was commonly brought-up during the emails we received as well. In opposition, maintain the original ETL hours was commented on, as well as returning the ETLs to either HOV or general purpose lanes.

**Commissioner Jennings:** On 167 what's the carpool requirement there?

**Carl See:** Two plus.

**Commissioner Jennings:** So if they're going from 167 to 405 they'd be able to be in.

**Carl See:** The three plus is only in effect from Bellevue to Lynnwood

**Commissioner Jennings:** Right.

**Carl See:** And only, of course during the peak hours not the entire 5:00 a.m. to 7:00 p.m. but in the morning and evening peak hours.

**Commissioner Jennings:** If someone was travelling on 167 transferring on to 405 and continuing on 405 they would not be able to be in the lane? If they only had two?

**Carl See:** Correct, during those.

**Commissioner Jennings:** Not on 405 but on 167 they would.

**Carl See:** Right. That's true.

**Carl See:** Additional questions about public comment? No? Okay.

So that covers the emergency rule that was, as proposed. There was one additional revision when reviewing the original proposal where staff identified that the WAC regarding motorcycles had not identified that there was a need to change hours of operation to note the hours of operation being in effect should pertain to the requirements for motorcycles to have a transponder to travel in the lane.

On checking with the AG it was not significant, it was not a substantial difference from the rule as proposed. It was just a clarifying proposal to make that change just to ensure consistency with the intent of the changes in the emergency and permanent rule. So that's for you to consider in addition to what was in the emergency rule as originally proposed. I can answer questions about that. It's WAC 468-270-140 that is the relevant WAC.

**Commissioner Jennings:** So, you're stating, we need to add to clarify that the Good to Go account and transponders are required only during the hours of operation?

**Carl See:** That is the effect for a motorcycle. A motorcycle does not need to have a Good to Go account, a transponder in order to use that HOV lane if it's not during the hours of operation.

**Commissioner Jennings:** During the hours of operation they would need to have it?

**Carl See:** Yes, yes they would.

**Commissioner Jennings:** I don't know about that.

**Carl See:** Currently if you didn't make the clarification it could be read that it would always be required to have that transponder regardless of whether it was during hours of operation or not during hours of operation. It would probably be implied that you would not need it, so that's why it's only a clarification, but in order to keep it as clean and understandable as possible that we requested that change. It's adding just a few words to clarify.

So, I did say I would take a look at the language and would show you the additional changes and here I'll talk about next steps. I can go to the slides that we've seen about how and what impacts this has had on traffic since being implemented. But the next steps today would be to receive public comment and to take action on the permanent rule then we can go ahead and file the CR-103 and concise explanatory statement. It would take effect 31 days after the ruling, after the filing, sorry.

Let's go, switch here real quick. Roy, your question to, looking at what WSDOT has been able to do is look at the hours of operation to identify how the congestion has changed in the evenings between April and June 2015 versus the current hours. So, it's not necessarily a comparison of

before the rule, when the emergency rule went into effect and after. I can speak to that a bit based on what we had seen in the prior, in the March meeting. In 2015 there was free flow nightly traffic in the HOV lane and general purpose lanes in the evenings, so think about that as starting at 7:00 p.m. and through the night. Now 2016 there was a slight increase in traffic at 7:00 p.m. when lanes open to all, then overnight there's no congestion.

We had been previously shown in March that there was, this is the 7:00 p.m. line for congestion and this is looking at congestion pm northbound and so this little blip was where they had seen congestion essentially after 7:00 p.m. before this rule went into effect.

My understanding is this would be up in the northern section. Sorry. This generally aligns with the map here, the roadway here, and so it'd be in the one-lane section. So, after the change, and perhaps Patty could speak to that more specifically, it's either a little bit better or very little difference in congestion after 7:00 p.m. But really there was very little congestion at 7:00 p.m. and later. Anyway that was part of the reason for dropping the ETL requirement at 7:00 p.m., that we wouldn't see it – potential for at least seeing better, a little freer following traffic after that point.

**Commissioner Litt:** Maybe Patty can come up and clarify where that location is? To me, is that near where it reduces to one lane instead of two?

**Patty Rubstello:** So the area that's yellow, that's up by the 527 Interchange, so that is north of where we go from 5 lanes down to three and that is kind of our main bottleneck that we know we have. That is where we see a lot of congestion, that stretch of the corridor because of the fact we've moved a lot more traffic up into that more constrained location.

**Reema Griffith:** Did you also, I think, this slide talks about the effect of the tolls during the evenings, but we were also seeing congestion we hadn't seen in the GP lanes on weekends. Right? Weren't there also some issues going on there when we were tolling 24/7?

**Patty Rubstello:** Yes. And that's the other slide that Carl has here to talk about weekends. Yes, we were seeing congestion on the weekends and we'd done a survey of customers wanting to know, kind of, how they were using it and when they didn't. What we realized is a lot of people that use 405 on the weekends are infrequent users, they didn't know about the flex pass, they weren't in a carpool, two-person carpools but didn't know they needed the flex pass to be in the express toll lanes to go free. Since opening, changing the hours of operations on the weekends we've seen that congestion go away. Another big piece, we changed the striping up by 520 and that's had a significant improvement to congestion, you know, even during the weekdays.

**Commissioner Batra:** Patty, on the previous slide, the congestion at the 527 Interchange, wouldn't that go away once you get your hard shoulder segment, that portion done?

**Patty Rubstello:** Yes. We would expect it would.

**Commissioner Batra:** Starting in three months or so.

**Patty Rubstello:** Yes. We would expect to see that further reduce,

**Commissioner Batra:** That'll go away? Right.

**Patty Rubstello:** I'd say further reduce. I'm not going to say anything is going away. I mean yellow, just recognize yellow isn't really congestion, it's just you're not going free flow, so there's a little turbulence out there but you're still moving pretty well through there.

**Commissioner Batra:** But it will make a difference.

**Patty Rubstello:** We do believe...

**Commissioner Batra:** Once you have the hard shoulder...

**Patty Rubstello:** Will make a difference in moving more traffic up in that area.

**Commissioner Batra:** Thank you.

**Patty Rubstello:** You're welcome.

**Carl See:** That speaks to what Patty just said about the weekends, that, this slide here does. With that, are there additional questions? Or?

**Commissioner Litt:** Are there additional questions for Carl? Seeing none, I guess we'll open for public testimony.

I have two people who have signed in and the first on the list is Vic Bishop and we'd like you to probably keep your comments to about 5 minutes.

Please remember the action before us today is just to make the emergency rule permanent with the additional clarification on the motorcycles not needing transponders.

### **Public Comment**

**Victor Bishop:** Thank you Mr. Chairman and Commissioners. My name is Victor Bishop and I am the Chair-elect of the Eastside Transportation Association. I came here in March and testified to you and I'm going to repeat a little bit of that, but have some additional comments. I do support the move to the permanent regulation, but I've got a suggestion for you to consider and an additional item about that.

Back to what I said in March, it is really, really important that we end-up with some hard data about how many three plus HOV vehicles are actually being carried in these ETLs both in the two-lane section and in the single-lane section to the north. In order to come to an understanding of how this thing really operates we really need to know how many carpools at three plus are really showing up and over time, and right now we don't really know that, what we know is the total vehicles in the ETLs and we know how many pay a toll so those are SOV or people who acknowledge that they don't get a free ride, and then we know actually how many don't pay a toll, but we don't know how many of those are cheaters. WSDOT does have technology and ability to collect that as I understand from Patty that they actually did make some collections and kind of thinking about the data and they're going to go out and do it again. So, it is really important we get that data and not only get it in there but you will be asked to make the tolling regulations for the next phase from Bellevue to Renton and I would recommend that you ask WSDOT to get that carpool data now in that section between Bellevue and Renton so when we're talking about the regulations when they eventually get that done in about five-years or eight-years or whenever it is. we have some data to work with. So that's point number one.

I'm glad to see that there's some analysis of the data on the weekend and at night but I want to see a little, quite a bit more rigorous evaluation and include the data from the time frame from before all this started. Go back to 2014, WSDOT has extensive data by lane, by five-minute period, they can find it out. Ask them to evaluate what was going on before the construction started, they messed it all up for a couple years and then after the tolls went into place, and then after the tolls came off on the weekends and I am specifically talking about Saturday so that we have a good understanding, because you've got a good experiment there prior to with no tolls implementing the HOT lanes with tolls and then implementing the HOT lanes without tolls so that's a good experiment and I encourage you to ask WSDOT to flush-out that information. The amendment that I suggest that you consider is: as you notice on all the capacity, congestion flow guide rams that are shown they only show, WSDOT only shows southbound in the morning and northbound at night. Now why do you suppose that is? How come they're not doing northbound in the morning and southbound at night? Well there is a very good reason of course, that is there is no congestion there, southbound at night and northbound in the morning, so why are we going to three plus carpools in the office peak direction, in those directions, why couldn't you in your rule making, make it 2+ northbound in the morning and 2+ southbound in the afternoon and give the similar relief during the weekday to those people who use 405, to not be bogged down with

the 3+ option? That to me would be very simple to implement and a very complementary additional regulation that would support the users of the corridor.

On the, on this presentation on slide seven of Benefits of Emergency Rule the number one bullet says the emergency rule remember, remove the tolls at night and on the weekend and number, the first bullet says *maintain faster, more reliable trips for transit, carpoolers, and toll-paying customers when needed most*. That statement doesn't make any sense at all to me. This is when there isn't any congestion and there isn't toll paying customers don't need it the most, they need it the most during course, during the peak periods. You took it off during the off the peak periods and the weekends. That's just the clarification, seems like somebody might want to ask, how come, what does that really mean?

Thank you. I think that is what I wanted to say. Please collect data. Data is, I'm an engineer, I'm data hungry and I want to understand this. Right now we don't understand as much as we could. Thank you.

**Commissioner Litt:** Thank you for your comments. I do want to mention that we have been monitoring closely, as we said we would when we adopted these originally and that is part of the reason there was a change and we'll ask, and we've got very good response from WSDOT as far as getting that data to us on a regular basis so we can watch how these perform. Thank you Mr. Bishop.

**Victor Bishop:** I think I'm going to stay here and run the clicker for Chris.

**Commissioner Litt:** Okay. Next on the list is Chris Johnson. If we could keep it to about five minutes that would be awesome.

**Chris Johnson:** Sure.

**Commissioner Litt:** Thank you.

**Chris Johnson:** I know I have some slides buried in your projector somewhere. Well I did have an exciting trip, shall we say, on the way down on your favorite corridor today so, I apologize for not being able to arrive earlier to set this up.

**Reema Griffith:** So, what was exciting about it?

**Chris Johnson:** Just the operational environment on I-405 South, once I hit 5 all was fine. I'm going to have Vic click the slides so I can concentrate on addressing any questions you have and explaining the data. I'll try to keep this short, but first of all for the record I'm Chris Johnson,

with the Bellevue Chamber of Commerce. I'm here testifying in strong support of the proposed permanent rule relating to I-405 ETLs operations. Our observation has been that during the period in which the emergency rule has been in effect we have seen congestion relief across modes and across sections of the roadway. Certainly between Bellevue and Bothell. We're assuming that's going to continue once the permanent rule has been adopted and we encourage you to do so.

For your consideration today as you deliberate I want to share with you a survey that we performed at the invitation of Commissioner Batra and staff, who went out and submitted a qualitative survey through Survey Monkey to members of the East King County Chambers of Commerce Legislative Coalition that's ten chambers, that's from Bothell all the way down to Maple Valley and out to Snoqualmie. So you may see some discrepancies in the data that may seem confusing but in part that's because not everyone is using 405 on a daily basis but the respondent chose to participate in the survey whether or not they were in the central core. Again, our target audience was CEOs and small to medium sized business owners in East King County. The total number of responses was 176. We sent the survey out as an embedded link in an email and to our own members in Bellevue we sent it out as a directly from Survey Monkey as a CVS. Again, not scientific, qualitative but it provides you with a snapshot of some direct customer feedback and I think that is important. Quickly, the first slide, question one, I think if you remember nothing from this survey, please think about this; and that is has your daily commute increased since express toll operations began? The response 49% said yes, of those who responded, 19% said no and 31% said they don't use the corridor daily.

The second slide, question two, if so by how much? That is your delay and 45% replied their daily commute increased by 15 – 30 minutes, that's opposed to under 15 or greater than 30 minutes that's by far the greatest cohort if you will.

Number Three - have you expressed, have you utilized the ETLs for your commute trip? 50% said they have utilized them.

And number four, slide number four, question number four, if yes, how often? By far the biggest group of respondents said 53% said twice or more per month. That's opposed to twice or more per week or daily. When we asked people why not? I want to inspect this a little further, I think it's worth your attention. Fifty-one percent said the tolls were too expensive and 15% said the time savings were minimal. Anecdotally my own experience is driving north on 405 during rush-hour, essentially once you hit SR 522 you, kind of hit the wall and then it does clear-out right about 527 but that's where I'm usually getting off.

Question Six - if you formally participated in a 2+ carpool, what are you doing now? We think this is importation for the department and for the Commission, when we consider further toll

pricing and policy. Sixty-six percent are now carpooling or driving alone in the general purpose lanes. So the idea is, and I'm sure someone else could do a scientific job on this, but the question is what happened to those 2+ carpoolers, what are they doing now? That is the response we got from our informal survey.

Number Seven - What percentage of your employees are using ETLs? Seventy-one percent said less than 5%. We asked them why that might be or how that's affecting their cost of business. Sixty-five percent of those who responded said employees are spending more time in traffic and arriving late. Nineteen percent are paying the toll, arriving on time or early.

Question Nine - State your preference on how to keep I-405 moving. This is kind of a, I guess you could say this is kind of a throw away but we wanted to know what they thought we should be doing next, because these are our business customers. Fifty percent said eliminate tolls on nights, weekends and holidays permanently, hence, the rule before you today. Forty percent, eliminate them altogether immediately.

And finally question eleven. This is just kind of another for the good of the order since soon we're going to be talking about, I hope, how to complete the I-405 program regardless of the funding levels in the recent \$16 billion dollar package. And that question is how should we pay for future improvements and 41% said index the state gas tax. I am happy to take questions offline, respond to you directly or through staff, we can talk a little more about some of the other responses were but I thought it was interesting folks, at least yet haven't caught fire on the idea of some kind of a VMT measure that may change in the future but right now they're saying let's just index the gas tax so we don't lose our purchasing power.

**Commissioner Young:** Can you read what some of those responses were, please?

**Chris Johnson:** Yeah, sure. The block on the top says expand use of express toll lanes and that was 23% said yes. Okay. Replace toll lanes all together and that's 14.75 and that's.

**Commissioner Jennings:** And that would be replace it with what?

**Chris Johnson:** With a flat toll.

**Commissioner Jennings:** Okay.

**Chris Johnson:** The next one was index the state gas tax and again the last one is some kind of a VMT charge. We kind of expected that folks were going to be more interested in a flat toll because people in our area are more used to that, some of us still remember the toll on SR 520. I remember putting my last 35 cents in the tray, that was a long time ago. There is some interest in

revisiting that at least as an element of policy if not moving towards pricing but it really didn't catch the imagination of the people that we tested. Again small and medium sized business owners who rely on 405 to move people and goods on a daily basis. These are people from Bothell all the way down to Maple Valley and out to Snoqualmie. That's all I have for now. I hope we can be a partner and a resource for you as you continue discussions about toll pricing and policy leading up to next session.

**Commissioner Litt:** Thank you. It's a good matrix to consider as we go along this path, we're neophytes in this too. We're learning as we go.

Is there anybody else in the audience that wants to testify on this proposal? Seeing none, we'll open it up for the Commission to take action on, to, I'll get it right. We got a question?

**Commissioner Jennings:** No, I have a motion.

**Commissioner Litt:** Oh. Okay.

**Commissioner Jennings:** Motion to adopt the changes in the emergency rule on I-405 with addition of the allowing motorcycles in the ET lanes without a Good to Go account and transponder when the ET lanes are open to all vehicles.

**Reema Griffith:** Could I request an amendment to your motion?

**Commissioner Jennings:** Yes.

**Reema Griffith:** All of those changes are currently reflected in the current 102 that you will be adopting today so I would, to be clear for the record, they're approving the 103. Essentially all the language in there was out for public review so I would prefer that you adopt the 103 as written and not specify the provisions in it because then it could call into question the future what exactly you intended to adopt.

**Commissioner Jennings:** Then I do the change to adopt the 103 with, do I need to do the amendment for the motorcycles?

**Reema Griffith:** No, it's in there.

**Commissioner Jennings:** Okay. Just to approve the adoption of the 103.

**Reema Griffith:** Yes. Thank you.

**Commissioner Litt:** We have a second? Commissioner Tortorelli second. Do we have any questions? Discussion?

**Commissioner Batra:** As being adopted and seconded but I do have a question. The concept or the idea of a 3+ carpool has that been addressed by the DOT earlier? Earlier in our evaluation?

**Commissioner Litt:** There was considerable discussion about that when the policies were originally adopted and in this proposal we were just addressing what we had in the CR-103, with just the nights and weekend toll free and the clarifying language for motorcycles. There was considerable discussion originally about 3+ and that was part of the reason for our monitoring request we put on the motion when we adopted those originally. I think, in fact there may have been a couple of Commissioners at the time that weren't totally convinced that 3+ was the right way to go. We went that direction. We can continue to monitor and see how it goes.

**Commissioner Batra:** That doesn't apply here?

**Commissioner Litt:** Right, that doesn't apply to this one.

**Commissioner Jennings:** We said we would monitor and take a look at it.

**Commissioner Batra:** Thank you.

**Commissioner Tortorelli:** Just to comment on that, because I sat through all those hearings on 2+, 3+ and everything else which were very contentious but it was all based on the algorithm that WSDOT had run based upon 2+ or 3+ and that 2+ it did not, the corridor did not move at an average of 45 mph. So it was really the algorithm that set-up the standard for going to a, the reasoning for going to a 3+.

**Commissioner Litt:** And part of that was even on historical evidence that 2+ was already congested and riding free entered into that whole discussion as well.

**Commissioner Serebrin:** I was glad to hear that at least some of the plenary data from Patty showing that there hadn't been adverse impact on performance of the ETLs since the emergency rule making. I'm a little concerned about going forward given kind of the explosive growth we're having in the Puget Sound Region and how that can contribute to longer congestion times and especially with the Sound Transit 3 ballot measure on the ballot in November. They are going to be investing a lot of money and a lot of, I think more than a 130,000 service hours annually on the 405 corridor in bus rapid transit, you know with 15 minute headways even in non-peak hours. It seems like this rule makes sense right now but I was wondering if we could talk a little bit more about when conditions change., If performance starts to degrade what does it

look like for maybe reinstating tolls as necessary given it can be kind of hard to go the other direction.

**Commissioner Litt:** I think that is something that we will have continuing discussions on with the Tolling Division.

**Commissioner Tortorelli:** Would it be beneficial to ask the Toll Division to give us some possible scenarios of what conditions would change before we start, what will trigger initial review?

**Commissioner Litt:** I think we can do that. I don't know do we need to do it with this motion.

**Commissioner Tortorelli:** Oh no. This was just the discussion the tolling team can have.

**Reema Griffith:** The sub-committee is looking at that. Yeah, they are starting that conversation of, should there be triggers and the little discussion we've had on it, it's such a not black and white world. Sometimes we inadvertently kind of corner yourself, by explicitly stating when these four things happen, this is what happens, then all of a sudden a fifth thing happens that you didn't think of or, so that's the danger of being overly explicit in your regulatory language. I think there could be. The Commission does policies. If there was a provisional guidance document you wanted to put out to the public that says, these are the things we'll think about but it's not full force of the regulatory WAC. That's another vehicle you could use to state intent without tying your hands.

**Commissioner Serebrin:** I'm not trying to edit the rule now. I'm just trying to understand what would the steps be and what kind.

**Reema Griffith:** Ultimately, if we saw kind of a decline in the performance whether it's in law or not they have to pay attention to the whole corridor, so if they're seeing a major, kind of like what you're seeing here, you're seeing some unintended consequences or performance happening that is deteriorating. The Commission has to by law address that and the department is the vehicle from which those solutions come forward and so, there are so many different scenarios that can play out, a lot of it is just to maintain maximum flexibility on your guys' part to make sure you can respond with the best solution given the situation and depending on where it is on the corridor it may vary. I think it's all just a promise that we're continuing to monitor actively, month to month and the department is doing it on a daily basis, living and breathing it. It's making sure everything is working the best it can within the tools we have to do it under the current configuration. There's certainly infrastructure investments the Legislature could make down the road that could help alleviate some of the challenges we're facing. There are lot of things at play that could make it better or worse depending on how decisions come forward.

**Commissioner Jennings:** Am I right that we can file a 101 at any time?

**Reema Griffith:** Yeah, absolutely.

**Commissioner Jennings:** So we can make the change, it may take us a little while to go through the procedure but as we're watching it and all this other kind of stuff, we can make that 101.

**Reema Griffith:** And you can do emergency rule making just like you did. If there is something really bad happening. You do have the authority under certain circumstances to act quickly so it's a fluid thing I think but it also is good to think about those triggers and I think that's why the subcommittee expressed that interest that they want to start preparing for at least the major indicators. But it doesn't go to say that's the only thing we should care about or concern ourselves with.

**Carl See:** Depending on the timing of when some problems might start popping up, we have to be thinking about the longer corridor as well, as funded by Legislature, to look at Bellevue to Renton and then do they incorporate 167 Auburn to Lynnwood and would it change now, change to soon to result in another change or to have consistency if that's the direction to go, so some of that may come down to timing as well.

**Commissioner Litt:** We do have a motion on the table, it's been seconded. Is there any further discussion? All those in favor say Aye.

**Commissioners:** Unanimous Aye

**Commissioner Litt:** Opposed? Thank you.

**TRANSPORTATION COMMISSION**

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ANNE E. HALEY, Chairman

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JOE TORTORELLI, Vice-Chairman

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SHIV BATRA, Member

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HESTER SEREBRIN, Member

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ROY JENNINGS, Member

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DEBBIE YOUNG, Member

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JERRY LITT, Member

ATTEST:

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REEMA GRIFFITH, Executive Director

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DATE OF APPROVAL